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9 Attorneys for Petitioner

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12
13 KEVIN JAMES LISLE,

14 Petitioner,

15 v.

16 WILLIAM GITTERE, Warden, Ely State
Prison, AARON FORD, Nevada Attorney
17 General,

18 Respondents.
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Case No. 2:03-cv-01006-MMD-DJA

**STIPULATION AND PROPOSED
ORDER**

(DEATH PENALTY CASE)

1 On July 5, 2019, this Court accepted the parties' stipulation "regarding
2 various aspects of the process for a mental health examination of Mr. Lisle for the
3 purposes of determining whether Mr. Lisle is competent to make a waiver of further
4 proceedings and whether his waiver is knowing, intelligent, and voluntary." ECF
5 No. 363 at 6.

6 The stipulation explained how the parties would prepare the documents for
7 the expert, how those documents would be transmitted to the expert, and how the
8 expert's evaluation would be scheduled. *Id.* at 3–5 ¶¶6–12.

9 Finally, the stipulation offered a tentative prediction that the expert's report
10 would be completed by December 31, 2019. In late December, the parties filed
11 another stipulation indicating that Dr. Piasecki was expected to evaluate Mr. Lisle
12 around February 9, 2020, and anticipating that her report would be completed by
13 the end of February. *See* ECF No. 383. This Court accepted that stipulation *See*
14 ECF No. 384.

15 On March 4, 2020, this Court ordered that:

16 [T]he parties are to either file Dr. Piasecki's report and
17 supporting documents as described in paragraphs 14 and
18 15 of the July 5, 2019 stipulation and order (ECF No.
19 363), or file a joint statement or stipulation explaining the
20 delay and proposing a new schedule.

21 ECF No. 385 at 2. The parties, by stipulation, asked this Court for an additional ten
22 days to comply with the Court's order; this Court accepted that stipulation. ECF
23 Nos. 386, 387.

24 The parties enter this stipulation to comply with the Court's March 4, 2020
25 order.

1 IT IS HEREBY STIPULATED AND AGREED that:

2 1. The delay in providing the report is owing mainly to unanticipated difficulties
3 in collecting and providing all the necessary documents to Dr. Piasecki.

4 Nonetheless, since the December 23, 2019 stipulation, the parties have continued to
5 work together on complying with the July 5, 2019 stipulation and its requirements
6 with regard to providing those documents to Dr. Piasecki.

7 2. In light of these unanticipated difficulties, the parties agreed to ask Dr.
8 Piasecki to defer submitting her report until after receiving one last category of
9 documents, *i.e.*, grievances filed by Mr. Lisle. Dr. Piasecki agreed to this request.

10 3. Dr. Piasecki met with and evaluated Mr. Lisle on February 9, 2020.

11 4. On March 1, 2020, Dr. Piasecki confirmed receiving the grievances filed by
12 Mr. Lisle.

13 5. On March 10, 2020, in response to the parties' attempts to determine when
14 the report would be complete, Dr. Piasecki e-mailed, "Thanks for the call regarding
15 report date. I'm traveling and in court today and will respond ASAP." The parties
16 sent a follow-up e-mail. On March 15, 2020, Dr. Piasecki sent a response stating, "Is
17 the first week of April an acceptable timeframe for receiving the report?" However,
18 this communication did not indicate whether the "first week of April" meant the
19 week ending April 3, 2020 or the week ending April 10, 2020. As of the time of filing
20 this stipulation, the parties have not received clarification from Dr. Piasecki.

1 6. To facilitate whichever week Dr. Piasecki referenced, and to minimize the
2 burden to the Court of repeated stipulations, the parties agree to assume Dr.
3 Piasecki's report will be completed no later than April 11, 2020.

4 7. Under normal circumstances, the parties would anticipate that the report
5 and documents gathered for Dr. Piasecki's review would be filed under seal shortly
6 after, and would have requested a few days' grace period to account for any
7 additional unanticipated difficulties related to filing this document under seal.
8 However, like every other entity, the parties are affected by the social distancing
9 measures related to COVID-19. Thus, filing the documents under seal could present
10 special difficulties.

11 8. In light of potential difficulties, the parties agree that Dr. Piasecki's report
12 and documents gathered for her review will be filed with appropriate haste, but no
13 later than April 21, 2020.

14 9. In all other respects, the parties will continue to comply with the July 5, 2019
15 stipulation.

16 DATED this 20th day of March, 2020

17 RENE L. VALLADARES
18 Federal Public Defender

19 /s/ David Anthony
20 DAVID ANTHONY
21 Assistant Federal Public Defender
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AARON FORD
Nevada Attorney General

/s/ Michael Bongard
MICHAEL BONGARD
Deputy Attorney General

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